

DOCKET NO. 3:01-CR-00031

Defendant.

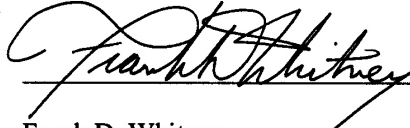
Here, Defendant admits that the United States Attorney specifically informed him that it would not be filing a motion to reduce his sentence for substantial assistance for three reasons: (1) Defendant tried to withdraw his plea; (2) Defendant filed a petition pursuant to 28 U.S.C. § 2255 for ineffective assistance of counsel; and (3) Defendant did not testify in any trial. Although Defendant may have provided helpful information in a homicide investigation in Tennessee, the United States Attorney's office in the Western District of North Carolina was well-aware of that assistance and deliberately determined that it did not rise to the level of substantial assistance to warrant a motion

for a reduction in Defendant's sentence. Defendant has failed to show this decision was based on an unconstitutional motive or that it was not rationally related to any legitimate Government end. Accordingly, Defendant's motions are denied.

IT IS, THEREFORE, ORDERED that Defendant's Defendant's "Motion to Compel Pursuant to 21 U.S.C. § 3553/Rule 35(b)," (Doc. No. 360); "Motion of Disposition pursuant to Motion to Compel 3553(e)/Rule35(b)," (Doc. No. 361); and "Motion to Compel," (Doc. No. 363), are DENIED.

IT IS SO ORDERED.

Signed: September 16, 2008



Frank D. Whitney
United States District Judge

